

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

CUREVAC SE, *et al.*

Plaintiffs

v.

BIONTECH SE, *et al.*,

Defendants

Case No. 2:23-cv-222

**ORDER**

This Order memorializes the Court's decisions on the parties' motions in limine, as recited at the Final Pretrial Conference.

CureVac's Motion in Limine No. 1 (ECF No. 620) is **DENIED**.

CureVac's Motion in Limine No. 2 (ECF No. 622) is **GRANTED**.

CureVac's Motion in Limine No. 3 (ECF No. 624) is **GRANTED IN PART**, as to any suggestion that it is improper to amend a claim to cover a competitor's product, but otherwise **DENIED**.

CureVac's Motion in Limine No. 5 (ECF No. 628) is **WITHDRAWN**.

CureVac's Motion in Limine No. 6 (ECF No. 630) is **GRANTED**.

CureVac's Motion in Limine No. 8 (ECF No. 634) is **GRANTED**.

CureVac's Motion in Limine No. 9 (ECF No. 636) is **GRANTED IN PART**, as to evidence about making a profit, but otherwise **DENIED**.

CureVac's Motion in Limine No. 10 (ECF No. 638) is **DENIED**.

CureVac's Motion in Limine No. 11 (ECF No. 640) is **GRANTED IN PART**, as to evidence related to Moderna, but otherwise **DENIED**.

BioNTech and Pfizer's Motion in Limine No. 2 (ECF No. 577) is **GRANTED**.

BioNTech and Pfizer's Motion in Limine No. 3 (ECF No. 579) is **GRANTED IN PART**, as to any derogatory or pejorative terms related to Big Pharma and any evidence of BioNTech and Pfizer's overall corporate revenue and profits, but **DENIED** as to BioNTech and Pfizer's relative size and financial condition and as to total profits from Comirnaty.

The parties are **FURTHER ORDERED** to refrain from using any derogatory or pejorative terms against any other party.

BioNTech and Pfizer's Motion in Limine No. 4 (ECF No. 582) is **GRANTED IN PART**, as to witness testimony, but **DENIED** as to opening statements and closing arguments.


BioNTech and Pfizer's Motion in Limine No. 7 (ECF No. 590) is **DENIED**, except the Court **RESERVED** ruling on any portion of the motion that might be addressed by its decision on CureVac's objection to Judge Miller's ruling excluding certain testimony of Dr. Andrew Zydney. The Court **DIRECTED** BioNTech and Pfizer to respond to the objection by 5:00 p.m. on Wednesday, February 26, 2025, and **DIRECTED** CureVac to file a reply by 5:00 p.m. on Thursday, February 27, 2025.

BioNTech and Pfizer's Motion in Limine No. 8 (ECF No. 593) is **DENIED IN PART**, as to the infringement expert, but the Court **RESERVED** ruling on the portion of the motion directed to the damages expert, until the Court has reviewed the spreadsheet referenced in the parties' briefing.

BioNTech and Pfizer's Motion in Limine No. 15 (ECF No. 613) is **GRANTED IN PART**, as to failure to obtain advice of counsel, and **DENIED AS MOOT** as to testimony related to induced infringement. The Court **RESERVED** ruling on the remaining issues in the motion.

The Court also **RESERVED** ruling on CureVac's Motion in Limine No. 7 (ECF No. 632), BioNTech and Pfizer's Motion in Limine No. 1 (ECF No. 646), and BioNTech and Pfizer's Motion in Limine No. 5 (ECF No. 584).

**IT IS SO ORDERED.**

  
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/s/  
Jamar K. Walker  
United States District Judge

Norfolk, Virginia  
February 24, 2025